

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION**

The Michelin Retirement Plan and the
Investment Committee of the Michelin
Retirement Plan,

and

Chicago Transit Authority Retiree Health
Care Trust,

Plaintiffs,

v.

Dilworth Paxson, LLP, et al.,

Defendants.

Case No.: 6:16-cv-03604-DCC-JDA

**PLAINTIFFS'
STATUS REPORT**

Plaintiffs The Michelin Retirement Plan and the Investment Committee of the Michelin Retirement Plan (“Michelin”), and Chicago Transit Authority Retiree Health Care Trust (“RHCT”) (together, “Plaintiffs”) submit this Status Report pursuant to the Court’s Order dated January 26, 2018 directing the parties to provide a status update every 60 days (ECF No. 266). No material changes have occurred since Plaintiffs’ last status report dated January 22, 2018 (ECF No. 260). Plaintiffs would respectfully submit that the current stay should be lifted and the matter proceed, with the exception of Defendant Cooney, who remains subject to the automatic bankruptcy stay as described herein. Plaintiffs provide the following updates as to the status as relates to the stay:

- I. *United States v. Jason Galanis, et al.*, 16 Cr. 0371 (R.A.) (S.D.N.Y.) (“Criminal Action”)

The criminal case pending in the Southern District of New York against Defendants Archer, Cooney, Dunkerley, John Galanis, Hirst and Morton, is still scheduled to begin on April 30, 2018.

**II. Securities and Exchange Commission v. Atlantic Asset Management, LLC,
15 Civ. 9764 (WHP) (S.D.N.Y.) (“AAM”)**

On July 11, 2017, Hartford Fire Insurance Company (“Hartford”) filed a Motion for Leave to File a Declaratory Judgment action (AAM, ECF No. 224). Hartford sought declaration that the policy and bond are void and no coverage is afforded under either the policy or the bond for claims sought by the Receiver on behalf of the investors (including Michelin).

On August 3, 2017, a hearing was held before Judge William Pauley in the Southern District of New York to discuss the Hartford Motion. (AAM, ECF No. 228). As a result of the hearing, Judge Pauley issued a Scheduling Order requiring Hartford to file by September 8, 2017, either their Motion for Leave to File a Declaratory Judgment Action against AAM only or a declaratory judgment action naming the Receiver and each of the insured plans (including Michelin) as Defendants. On August 21, 2017, the court issued a Final Judgment as to Defendant Atlantic Asset Management, LLC. (AAM, ECF No. 247).

On September 8, 2017, in the Southern District of New York, Hartford filed its Complaint for Declaratory Judgment naming the Receiver and each of the insured plans (including Michelin and RHCT) as Defendants in the action. Hartford Fire Insurance Company v. Marti P. Murray, et al., 17 Civ. 6855 (S.D.N.Y.). (Hartford, ECF No. 1). The insured plans are currently engaged in motion practice and some discovery with respect to the parties’ claims and will have oral arguments on the motions on April 20, 2018.

Even with the estimated maximum possible proceeds from the Hartford policies, it is likely that more than 90 percent of Plaintiffs’ collective damages will still be unsatisfied. Thus,

further developments in the receivership and coverage proceedings do not provide any reason to continue to stay this action. Plaintiffs should be allowed to proceed with their civil claims against the remaining Defendants even while they pursue these alternate avenues of recovery.

III. Bevan Cooney Bankruptcy

On January 19, 2018, Defendant Bevan Cooney entered into a Consent Judgment and Order Determining Debt Non-Dischargeable with Michelin; wherein, Defendant Cooney consented to entry of a money judgment against him in the South Carolina Civil Action (C.A. No.: 6:16-cv-03604-DCC-JDA), for the benefit of Michelin, in the amount of restitution ordered payable to Michelin, or Michelin's pro rata share of the total restitution ordered, in the pending Criminal Action (Item I above). If Defendant Cooney is acquitted in the Criminal Action, Michelin retains the right to pursue all civil remedies against the Defendant Cooney. Michelin agreed to stay the South Carolina Civil Action against Defendant Cooney until the conclusion of his Criminal Action. IN RE: Bevan T. Cooney, Debtor, United States Bankruptcy Court, Western District of Michigan, Case No.: 17-03016-jwb; ECF No.: 15.

On March 8, 2018, the United States Bankruptcy Court for the Western District of Michigan entered an order holding RHCT's adversary action against Defendant Cooney in abeyance pending the outcome of the criminal trial scheduled to start April 30, 2018. IN RE: Bevan T. Cooney, Debtor, United States Bankruptcy Court, Western District of Michigan, Adversary Proceeding #: 17-80161-jwb; ECF No.: 11. Upon completion of the criminal trial, RHCT will likely seek to lift any stay that would impact this action as to Defendant Cooney.

Respectfully submitted,

March 23, 2018

s/ J. Derrick Quattlebaum

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